

REMARKS/ARGUMENTS

In the restriction requirement dated August 19, 2008, the Examiner delineated the following inventions as being patentably distinct:

- Group I: Claims 1-8 and 17-20, drawn to a process for the make-up of a catalyst in a reactor; and
- Group II: Claims 9-16, drawn to a process for the shut-down of a reactor in multiphase systems according to the Fischer-Tropsch technology.

Applicants provisionally elect with traverse the invention of Group I, Claims 1-8 and 17-20, drawn to a process for the make-up of a catalyst in a reactor.

The claims of Groups I and II are integrally linked as methods of operation. One method is critical for the operation of the other.

Restriction is only proper if the claims of the restricted groups are patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions in regard to patentable distinction. Moreover, when making a lack of unity of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other (i.e., why there is no single inventive concept) specifically describing the unique special technical feature in each group (M.P.E.P. § 1893.03(d)).

Applicants respectfully traverse the restriction requirement on the ground that the Examiner has not carried the burden of providing any reasons and/or examples to support conclusions that the claims of the restricted groups are patentably distinct or providing any reasons and/or examples to support any conclusion that the groups lack unity of invention.

The Examiner asserts that Groups I and II do not relate to a single general inventive concept and PCT Rule 13.1 and 13.2 because they lack the same corresponding special technical feature.

The Examiner, however, has not considered that the claims in each group are considered to have unity of invention under 37 C.F.R. § 1.475(b) in which the claims are considered to have unity of invention. Applicants submit that while PCT Rule 13.1 and 13.2 are applicable, 37 C.F.R. § 1.475(b) provides in relevant part that a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn to product, process, and use of said product. There is a technical relationship that involves the same features, and it is this technical feature that defines the contribution which each of the groups, taken as a whole make over the prior art. In the instant application all of the claims, either directly or indirectly are rooted in the Fischer-Tropsch reaction.

Moreover, applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. As the Office has not shown any evidence that a restriction requirement should be required when the International Examination Report did not, restriction is believed to be improper.

For the reasons set forth above, Applicants request that the Restriction Requirement be withdrawn.

Applicants request that if the invention of Group I is found allowable, withdraw Group II, which includes the limitation of the allowable claims be rejoined (M.P.E.P. § 821.04).

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and an early notice of such action is earnestly solicited.

Respectfully submitted,

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